

October 27, 2003

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TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS
OCTOBER 27, 2003

MEMBERS PRESENT: MICHAEL KANE, CHAIRMAN
LEN MCDONALD
MICHAEL REIS
STEPHEN RIVERA
JOSEPH MINUTA

ALSO PRESENT: MICHAEL BABCOCK
BUILDING INSPECTOR

ANDREW KRIEGER, ESQ.
ZONING BOARD ATTORNEY

MYRA MASON
ZONING BOARD SECRETARY

REGULAR MEETING

MR. KANE: I'd like to call the October 27, 2003 meeting of the New Windsor Zoning Board to order. Motion to accept the minutes of September 22, 2003 as written.

MR. REIS: So moved.

MR. MCDONALD: Second it.

ROLL CALL

MR. REIS	AYE
MR. MINUTA	AYE
MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. KANE	AYE

PRELIMINARY MEETINGS:

CHARLES BECHLE (#03-48)

MR. KANE: Request for variance for proposed 12 ft. x 24 ft. shed that will project between the house and road on a corner lot (Section 48-14-A-4) located at 467 Mt. Airy Road in a R-3 zone.

Mr. and Mrs. Charles Bechle appeared before the board for this proposal.

MR. KANE: Just to let you all know, the idea of the preliminary hearings is to give us a good idea of what you want to do and that will give you the chance to see what we need from you to make that possible. So when you come back for your public hearing, you'll basically go through the same procedure. Okay, Charles, tell us what you want to do.

MR. BECHLE: We want to build a shed about 15 feet away from our property line. When we first came up with the idea of building the shed, we didn't think that we didn't consider Moretta Drive to be our frontage, we thought Mt. Airy Road was our frontage and we were corrected when we went to get our building permit.

MR. KANE: Are they here because they're on a corner property?

MR. BABCOCK: They're on the corner of a Town road and a private road, Moretta Drive's a private road, which is a front yard to them and Mt. Airy Road is a front yard.

MR. KANE: So if it wasn't for that, they wouldn't been here?

MR. BABCOCK: That's correct, it's actually their rear yard.

MR. KANE: Do you understand why you're here?

MR. BECHLE: Yeah, we have two front yards.

MR. KANE: New York State.

MR. BECHLE: Four years ago we didn't have two front yards, this was driveway, now we do.

MR. KANE: Shed's similar in size and nature to other sheds in the area?

MR. BECHLE: Right.

MR. KANE: Would you be cutting down any substantial vegetation or trees?

MR. BECHLE: No.

MR. KANE: Creating any water hazards or runoffs?

MR. BECHLE: No.

MR. REIS: Won't be conflicting with any sewer or water easements?

MR. BECHLE: No, it's not near any utilities whatsoever.

MR. MCDONALD: Ever had any complaints, written or otherwise on the location of your shed?

MR. BECHLE: Well, we don't have a shed yet.

MR. KANE: This is a brand new one, unlike what we usually do. It's 15 feet, Mike, if it was a side property, they're ten foot out there?

MR. BABCOCK: That's correct.

MR. KANE: Pretty straightforward, gentlemen, do you have any other questions?

MR. REIS: Accept a motion?

MR. BECHLE: All these pictures, picture number one is taken from here. This is taken from this and so on.

MR. KANE: You're too good.

MR. BECHLE: It's kind of what I do at work.

MR. KANE: Yes, Michael, I'll accept a motion.

MR. REIS: Make a motion we set up the Bechle family for their requested variance at 467 Mt. Airy Road for a public hearing.

MR. MCDONALD: Second it.

ROLL CALL

MR. REIS	AYE
MR. MINUTA	AYE
MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. KANE	AYE

MR. KANE: Follow that, if you have any questions, just give Myra a call.

MR. BECHLE: Thank you.

THOMAS GAYTON (#03-49)

MR. KANE: Request for 4 ft. rear yard setback for existing porch (Section 48-12 use/bulk tables R-4 zone column G-8 at 3 Crest Haven Drive in an R-4 zone.

Mr. Thomas Gayton appeared before the board for this proposal.

MR. KANE: Thomas, tell us what you want to do, sir.

MR. GAYTON: Well, Michael, the porch was already in existence when I bought the house and when I refinanced they told me that it didn't have a variance and that was 33 years ago that I had bought the house so--

MR. KANE: Thirty-three years ago which would put you to, you're passed zoning so it's not pre-existing. Have you ever had any complaints formally or informally about this?

MR. GAYTON: No.

MR. KANE: Cut down any substantial vegetation or trees in the building of this?

MR. GAYTON: No.

MR. KANE: Creation of any water hazards or runoff?

MR. GAYTON: No.

MR. KANE: Porch itself is similar to other porches in the area?

MR. GAYTON: And I don't believe any of them have variances either so--

MR. KANE: Obviously, Michael, have to go through the inspection process with everything else and the electric going out to the porch?

MR. BABCOCK: Yes.

MR. KANE: So you'll inspect all that?

MR. BABCOCK: Yes.

MR. KANE: Gentlemen, any further questions here?

MR. REIS: No.

MR. MCDONALD: Make a motion we set Mr. Gayton up for a public hearing on his requested 4 foot rear yard setback.

MR. RIVERA: Second it.

ROLL CALL

MR. REIS	AYE
MR. MINUTA	AYE
MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. KANE	AYE

ROBERT VASTA (#03-50)

MR. KANE: Request for 13 ft. rear yard setback for proposed pool deck (Section 48-12 Use/Bulk Tables R-4 Column G-8) at 300 Stephenson Lane in an R-4 zone.

Mr. Steve Kuprych appeared before the board for this proposal.

MR. KANE: Just remember to speak clearly enough so the young lady can hear you. Tell us what you want to do.

MR. KUPRYCH: My client would like to build a deck between the above-ground pool, 18 foot round above-ground pool and that deck is going to be placed between the existing deck and the pool.

MR. KANE: Is it going to connect to the existing deck?

MR. KUPRYCH: Well, no, there's a concrete slab there now, the proposed deck will attach to that concrete slab and go up to the elevation of the coping of the pool.

MR. KANE: Mike, if that's the case, that's not considered part of the main deck on the house?

MR. BABCOCK: No, I'm considering it part of the deck, I think when you said it's not attached, you can walk from the house deck to this deck, so we feel--

MR. KANE: For our purposes we're considering it attached?

MR. BABCOCK: Attached, yes, it's right up against it.

MR. KANE: That's why I asked, I wanted to clarify. You can continue, sir.

MR. REIS: Is that accurate, Steve? Looks like you have a question about that.

MR. KUPRYCH: Well, to be clear about that, yeah, it is up against the existing deck, but there's an elevation difference and they're not going to be able to go from

that elevated deck to the proposed pool deck. They have to leave that deck, go down onto the concrete slab and go back up a set of open stairs to the proposed deck.

MR. BABCOCK: Right.

MR KUPRYCH: Well--

MR. BABCOCK: Yeah, basically, Steve, if you go down from a deck or concrete slab down to the ground and then from the ground back up, we consider that not being attached, this, the stairs are touching the one concrete slab to this deck, so for the purpose of setbacks, it's considered attached. It may not be nailed to it, but it's attached for setbacks.

MR. KUPRYCH: Okay.

MR. BABCOCK: That's the reason you're here tonight.

MR. KANE: Just want to be clear.

MR. KUPRYCH: Do you have a picture, Mr. Chairman?

MR. KANE: Yes, I do. So your deck is going to come down to this slab right here, is that what I'm gathering? There's the pool, there's the upper deck and this is the concrete pad and you're going to have a deck here with a stairway coming down?

MR. KUPRYCH: Filling that space, correct, that space is approximately 13, 11 or 13 feet.

MR. KANE: How big of a deck are you proposing?

MR. KUPRYCH: 154 square feet.

MR. KANE: That deck similar to decks, other decks in the neighborhood, approximately?

MR. KUPRYCH: I would say yes, it might even be considered small.

MR. KANE: Going to be cutting down any trees or

substantial vegetation in the building of the deck?

MR. KUPRYCH: No.

MR. KANE: Creating any water hazards or runoffs?

MR. KUPRYCH: No.

MR. KANE: Do you feel this deck is a safety feature for the pool?

MR. KUPRYCH: Yes.

MR. KANE: Self-closing, self-latching gate coming up from the steps?

MR. KUPRYCH: Yes.

MR. KANE: So the measurement of the 27 feet, Mike, goes to the back of the pool, right, the pool wall?

MR. BABCOCK: Actually, it goes--

MR. KANE: Or go to the deck?

MR. BABCOCK: It goes to the deck. Right now, the existing house is 40 feet off the property line and the deck is going to project on the one side 13 feet out.

MR. KANE: Gentlemen, do you have any further questions?

MR. REIS: Accept a motion?

MR. KANE: Sure would.

MR. REIS: Make a motion that we set up Mr. Vasta for a public hearing for his requested variance at 300 Stephenson Lane.

MR. MCDONALD: Second it.

ROLL CALL

MR. REIS

AYE

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MR. MINUTA	AYE
MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. KANE	AYE

PETER DALY (#03-51)

MR. KANE: Request for proposed 6 ft. fence that will project between the house and street on a corner lot (Use 48-14-C-1(c)-1) at 325 Nina Street in an R-4 zone.

Mr. and Mrs. Peter Daly appeared before the board for this proposal.

MR. KANE: How you doing? Tell us what you want to do.

MR. DALY: I want to replace the existing fence that's there now.

MR. KANE: Is it going to be in the same place the fence is right now?

MR. DALY: Correct.

MR. KANE: We can see that falling apart. Mike, there was no existing C.O. on the existing fence?

MR. BABCOCK: Actually, it was a 4 foot fence, Mr. Chairman.

MR. DALY: That was a year and half ago and that's what was there.

MR. KANE: That's four foot?

MR. DALY: No, 6.

MR. BABCOCK: According to my information here, it was a 4 foot fence.

MR. KANE: This is the fence you're replacing?

MR. BABCOCK: They want to put a 6 foot fence up regardless, 4 foot fence would be permitted.

MR. MCDONALD: Six wouldn't.

MR. KANE: So they got a permit for a 4 foot fence, put up a 6 foot fence anyway?

MR. BABCOCK: Possibly.

MR. DALY: That was the people before us.

MR. BABCOCK: That's correct.

MR. MINUTA: Just to clarify the fence is being taken down and you're replacing this one?

MR. DALY: Yes.

MR. MCDONALD: Same fence going back up?

MRS. DALY: Basically, it's going to be a scalloped.

MR. KANE: Natural wood fence?

MR. DALY: Cedar.

MR. KANE: Stained, painted?

MR. DALY: Eventually probably stained.

MR. KANE: You decide yet?

MRS. DALY: It's going to be stained.

MR. KANE: Won't be blocking the view of traffic for cars on that corner lot?

MR. DALY: I don't believe so. You're looking at our house.

MR. MCDONALD: It's going to be on the same footprint?

MRS. DALY: There's bushes that we cut down.

MR. KANE: If for the public hearing if you can bring me one picture standing from the corner.

MRS. DALY: There's one there now.

MR. KANE: Maybe from across the street I just want to see how far back that is from this view right here.

MRS. DALY: Okay.

MR. REIS: Have you had any comments from your neighbors good, bad or indifferent?

MR. DALY: Actually, the neighbor behind us has a fence connecting with us.

MRS. DALY: We share the same fence line.

MR. KANE: No cutting down trees, substantial shrubbery, not creating water hazards with the fence that's there now?

MR. DALY: No.

MR. MCDONALD: Accept a motion?

MR. KANE: Yeah.

MR. MCDONALD: Make a motion that we set up Mr. Daly for a public hearing for his requested 6 foot fence.

MR. RIVERA: Second it.

ROLL CALL

MR. REIS	AYE
MR. MINUTA	AYE
MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. KANE	AYE

CELLULAR ONE (CHAZEN ENG.) (#03-52)

MR. KANE: Request for interpretation and/or use variance for telecommunication facility to be located on existing radio tower (48-21M and 48-24 B(3)) at 535 Toleman Road in an R-1 zone.

Mr. Chris Fisher and Ms. Eva Billeci appeared before the board for this proposal.

MR. KANE: Could you both sign in so we have your name for the stenographer please? Thank you.

MR. FISHER: This is actually a pretty straightforward application. We're proposing to put 9 panel antennas and this is a WGNV, they're existing in Town on the existing tower below the existing height, that's what they'll look like. There's already at the base of the tower about 225 foot tower, this is about 175 feet plus minus at the base of the tower. Now there's already an equipment shelter that has all the electronics through the broadcast facilities that are there. We're going to put another shed next to it, about 300 square feet so it's a little bit bigger than your average but not much. To enclose, 240, that will just enclose the electronics for the cellular telephone antennas. The only reason we're here we had an application before the planning board, there's this question on the zoning code as to whether or the intent of the Town Board when they adopted the wireless regulations was to allow these even as a co-located facility on the existing tower because this happens to be a residential zone. When we looked through the code, everything that you read throughout the code says co-locations preferred, we don't want new towers. We want you to co-locate the facilities and if you propose a new tower, prove to us why you can't do something like this. There's another section of the code that says these regulations apply to various zoning districts, mostly commercial and industrial zones, the way we look at that the way which makes the most sense in interpreting the code would be this is allowed but you wouldn't allow a new tower in residential zone and I think this is probably what the Town Board was going for when they adopted the regulations. I'd be really surprised if they said this

little antenna on an existing tower that's there are there and legal requires a use variance, but we have asked for that in the alternative, in the event that you didn't find that the interpretation was appropriate so we can get the facility permitted. We've got to go back to the planning board for a special permit and site plan no matter what, we've got two boards, we're asking for a hearing, the planning board has scheduled a hearing, I believe for this meeting, which would be a couple days after your next available date. So we're hoping to get a hearing and if all works well, we can get your approvals.

MR. KANE: Did you read the package? Do you have any questions?

MR. MINUTA: I have a couple questions. With regard to the tower itself, the tower will substantially hold the proposed antennas? You have an engineering report for that?

MR. FISHER: Chazen did a structural which was in the package that demonstrates that.

MR. MINUTA: Does this existing tower, has it been designed to have a fall zone of one half its height?

MR. FISHER: I'm not sure what the existing design engineering would be on this guy tower. I don't know if you want to answer that question.

MS. BILLECI: How this one falls, no, I think the setbacks are around that.

MR. FISHER: A guy tower falls substantially different than what you're seeing in monopolls.

MR. MINUTA: I'm familiar, I've designed about 120 of them myself.

MR. FISHER: They don't fall over, they come down.

MR. MINUTA: Be designed to have a halfway break point. My question is does this tower have that?

MR. FISHER: Well, my own understanding, although I'm not an engineer of guy tower facilities is that they don't actually bend over or fall over, it would be a yield point halfway but they're sectioned and due to the different guy tensions that they'd collapse more down into the property which supports them. I don't know the answer and honestly, with respect to both the interpretation and use variance relief we've sought, I'm not, because of its location, it's really not a criteria that's in the wireless regulations, if it was a new tower, you'd have certain standards certainly.

MR. MINUTA: Correct, but you're asking for a variance on this. I have no issues with that, I think what you're doing here is commendable, trying to put it on the existing tower without building a new one. My question does relate to, however, the fall zone, which is more of a planning board issue so I should, I will direct it to them for a question at that time.

MR. FISHER: We can try and find out.

MR. KRIEGER: You should be aware that the purpose of the preliminary hearing is so that you can find out as much as the board can find out what the application is so you can find out what the concerns of the various members of the board are so that you'd be better prepared at the time of the public hearing to address these questions.

MR. KANE: If you can get that information for the public hearing or as much as is available to you we'd appreciate that.

MR. FISHER: Sure.

MR. KRIEGER: Certainly I should think the board would want to know what's around the tower.

MR. KANE: Is there a home within 200 feet of the tower?

MS. BILLECI: Nearest property line is a hundred and--

MR. KANE: If you can do that, we'd like to know.

MR. FISHER: Obviously, we have properties that are within the 500 foot notice.

MR. BABCOCK: I have a map here of where the existing tower's supposed to be and it's the proposed location and it's about 150 feet diagonally to the property line, 145, 148, 144 and 139, it's pretty much dead center of the piece of the property.

MR. FISHER: So try to look at the area, see where the house is in relation.

MR. KANE: Lot of trees around the tower?

MS. BILLECI: It's pretty much cleared out around the tower and then there's trees surrounding the property line shielding it from the residences.

MR. KANE: Okay.

MR. REIS: It's a very rural area right there, I think the closest house to it physically to it is probably 300 feet or so.

MR. KANE: Approximately.

MR. MC DONALD: You're going to be at 175 feet?

MR. FISHER: That's correct.

MR. KANE: The other concern was that if you can for the public hearing make sure you're going to put 9 on there, we want to make sure that it can handle that.

MR. MINUTA: Yes.

MS. BILLECI: We did a performance structural analysis, we do have some of the guy wires are old and frayed so we do suspect they'll need to be replaced and one of the things that Town engineer asked for was a detail for that so we'll provide that.

MR. MINUTA: I did have one final question and my question is with respect to there's another tower

located across the street and I'm wondering why you couldn't, that question is going to be raised anyway so we'll raise it here, so you can answer it, why can't you locate on that tower?

MS. BILLECI: Topographically, it doesn't work. If you look at this radio tower, it's up on a hill. You're literally probably about 150 foot up the hill from where the next cell tower is, base elevation, and the available, next available height is 130 feet, the available height on this is 170 so you're literally getting 100 feet higher by co-locating on this radio tower versus going on the Nextel tower.

MR. MINUTA: So you're eliminating radio frequency shadowing?

MS. BILLECI: Getting a better area.

MR. BRENNAN: Kevin Brennan from Cellular One. The hill that the tower zone, right now, the radio tower versus the other, if you were to go out there and stand at the elevations, they have their tower that it just barely gets over that hill that exists, okay, if we went onto that new tower, we'd have to go lower, the differential that we have to get to get the same propagations that we get now are some 75 feet higher on that new tower. And one of other questions when we first started was why that tower was built and not co-located on the radio tower cause we interpreted the law a little differently.

MR. MINUTA: Did you find an answer?

MR. BRENNAN: Yes, sir, answer was to--

MS. BILLECI: We were told that Nextel doesn't co-locate and they wanted to build their own towers.

MR. BRENNAN: That's what they told the Town. So I don't know why we're not, I can't get into it, but I can tell you we addressed it and we looked at it very seriously because we figured there must have been a reason that one was at the other.

MS. BILLECI: We provided RF propagation counts showing why the Nextel tower doesn't work and the radio tower does and they're in that package, they're in your package.

MR. KANE: Anything else?

MR. MINUTA: I'm all set, yes, thank you.

MR. KRIEGER: Okay, couple of things here. First of all, with respect to the towers, I don't know if this is the case for this particular tower or not, but just for the board's information, the cell tower law in New Windsor requiring co-location has been referred to previously encouraging co-location, co-location was actually enacted after one or more cell towers had been erected in this Town, whether this predate, whether this tower predates that law or not, I don't know. But that's one of the reasons why a different standard might be applied to this applicant than appears to have been applied to Nextel at the time they built their tower. Secondly, I want to mention to the board that I have been in contact with the attorney for the, and a substantial conversation with the attorney for the applicant here with regard to the legal issues which are substantial. Without belaboring a point, this falls into what appears to be a bit of a gray area and as a result of that conversation, it was my suggestion that they come here as they are tonight to explain to the board what they want to do. And a mechanism that you're probably familiar with is for an interpretation and/or use variance, in this particular case, you may want to consider the use variance cart before the horse, if you will, you may want to consider the use variance. In my conversations with the applicant, it appears that they're seeking permission to use the tower, they really are not necessarily wedded to it being an interpretation or a use variance, they don't apparently care. You may. With respect to the use variance, there's going to be, there is by virtue of the Federal Law controlling this area a somewhat if you will relaxed standard than would normally appear for use variances, according to the State Law, it was my suggestion to the applicant's attorney that a presentation be made at the time of the public hearing

which would cover all the basics for a use variance, just as if it were under the State Law. My feeling was if this board was comfortable with that, they would certainly be comfortable with the lesser standard. We don't have to get into that issue of do they need the lesser standard and does that apply and so forth and becomes moot if they meet the standard. So with that, I will further advise the board as it wishes when this application comes up for a--

MR. KANE: You'll be prepared for the public hearing to address the use, five points of the use variance just in case?

MR. FISHER: We'll be prepared to address it. The only thing I'd say is that technically we're a public utility. Under New York State law which as was mentioned relaxes it, the only thing we wouldn't be prepared and because it's not relevant is the dollars and cents thing, if you were on a typical use variance application someone was saying I can't make an economic return for commercial, therefore, let me do residential or vice versa, you'd expect some kind of proof. We wouldn't have that kind of proof.

MR. KRIEGER: I have discussed that aspect with the attorney for Cellular One and suggested ways in which they arguably might be able to meet that test. It's my understanding they will therefore be prepared to so do and they certainly would have the advantage of the relaxed standard of the Telecommunications Act if that's necessary.

MR. KANE: Okay, Len, Steve, anything?

MR. MCDONALD: No.

MR. RIVERA: No.

MR. MINUTA: Mr. Chairman, two more questions, brief. By co-locating on this tower, would this prevent you from having to locate another tower closely? What's the range of the antenna?

MR. FISHER: Yeah, I think the answer to that is the

higher we get, the more wide area coverage we'd get, reducing the need for other towers. The RF plots have it but I'm not an RF engineer, but maybe Kevin, you can interpret this a little bit?

MR. BRENNAN: This site is to fill in that gap on 207, both in the Rock Tavern and into New Windsor-Toleman Road going out to the airport. And it hands off to our other side in New Windsor and the new site we built on the water tower at Stewart, and this should handle that whole area. If there's anyplace that there's a question of a future tower, it will be in the Salisbury Mills area over on that side. These sites are now almost four to five miles that they, six miles maximum they're apart, they cover approximately three miles around and that's what we're working on right now.

MR. MINUTA: The second part of that question is in the propagation map. Have you provided other sites where they're located adjacent to this one?

MS. BILLECI: Yes.

MR. FISHER: Yes.

MR. MINUTA: Thank you.

MR. KANE: Do I hear a motion?

MR. MINUTA: Accept a motion?

MR. KANE: Yes, I will.

MR. MINUTA: Make a motion that we move Cellular One Chazen Engineering to a public hearing for their requested interpretation and/or use variance for telecommunications facility to be located on the existing radio tower.

MR. MCDONALD: Second it.

ROLL CALL

MR. REIS	AYE
MR. MINUTA	AYE

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MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. KANE	AYE

PUBLIC HEARINGS:

HIGHVIEW ESTATES OF O.C. (#03-40)

MR. KANE: This is a continuation of a prior public hearing. Request for use variance to permit single family dwelling at Route 207 & Kings Road in an OLI zone.

Stephen Reineke, Esq. appeared before the board for this proposal.

MR. REINEKE: While the rest of the group is signing in, my name is Steve Reineke. I'm the attorney for the applicant. With me here we have a principle of Highview Estates, Jessie Stern, real estate broker, sales person and Dan Yanosh in the audience who's an engineer surveyor who prepared the maps that we have in case there are any questions on that. What we'd like to do this evening is to present to the board the rationale as to why this variance should be granted. It is a use variance, I understand there were members of the public present.

MS. MASON: Same maps?

MR. REINEKE: These are maps, it's the same property but it illustrates things a little differently. The first map that I will present to the board is the same map of the property identification. On this map are the wetlands which--

MR. KANE: I just need to clear something up with this particular hearing, if the prior hearing we had the public portion of that hearing, we will not be reopening it to the public at this point so just wanted to clarify that for you.

MR. REINEKE: This map shows property, shows the wetlands and in order to comply with the requirements on a use variance, what we did was we showed on this property the available usable area that would come into play for those uses that require the 100 foot setback which are a number of the news uses in the zone. If you look at the word Kings Road, go down below that,

you'll see that we have identified on this particular map all of the uses in the zone that are for all intents and purposes eliminated by the setback. The only usable area for those particular uses with the setbacks that are required is the small triangle, this little one right over here, this area right here, so we feel that that's fairly clear as demonstrating that those uses just are not feasible. We couldn't fit parking and the structure in that location in that limited to location. We have also for the board a second map, again, same property, this one shows the area within the required setbacks that could be used for office space which is probably the only commercial use that you could even consider putting in there. Again, this shows on that same side the usable area. The concern that we have with this which Jessie can speak to if the board needs any followup is that essentially, it would be an office facility with its back to the main commercial highway access off Kings Road and would be an isolated commercial piece in what is primarily now a residential developed area. Mr. Biagini can advise the board under oath if you so desire that the property to the right of where this building would be located is essentially a vacant parcel of land followed by seven residential parcels and then you come back to where it loops back to 207. The area immediately across Kings Road which right now is vacant we obtained a written conformation that that property is the subject of a 49 lot residential subdivision. So we have confirmation for that for the record. So, essentially, what you'd be left with here would be an office facility surrounded by residences accessed off a, basically, you'd have to come in off station, make a left on Kings with no access out to Route 207. You have the limited area there, probably, and Mr. Yanosh can confirm if you want his testimony, probably no other area where the septic can be located other than where it's shown up at that top corner of the usable space, thereby eliminating the expansion of the parking and any increase in the size of the structure. Structure that size I'm told by Mr. Biagini who can verify it for you would probably run about \$100 a foot for construction cost, it would have to meet the handicapped accessible requirements and basically, the difficulty that we're faced with in that is again

trying to lease it in a residential area. You'd have an extremely limited market based upon the surrounding residences, no other commercial uses to draw people into the facility and probably with the access issue that in and of itself would make it extremely difficult. The third map that we have for you is the once again the same property, we didn't get too creative here, multiple maps for the same property, this shows the use for which the variance is requested which is the single family structure, again utilizing the setbacks, development is in that same location, the isolated parcel by the portion opened by the Town of New Windsor remains wet, unusable, the septic field can now be out in that area, there's a larger expansion area. And in the event of any failure and this in effect is a use that based upon the residential development proposed across the street and the series of residential homes to the right which would be to the east would be in keeping with the neighborhood. We feel that this property is truly unique in this particular zone in that it's unfortunately split by a parcel of land that happens to be an abandoned roadbed. A request had been made to the Town to see whether or not it would be abandoned to the property but apparently they were not interested in simply abandoning it, if it was not split, the, obviously, the setbacks could be better located and you could have access and possibly even placement of a commercial structure closer to 207 which might make that more commercially feasible. But as the property presently exists, it truly is unique being divided like that in a commercial zone and the fact that it's a parcel of land that although it has frontage by virtue of the property to the left closer to Station Road, technically, it has frontage on 207, it really has no access out to 207, there's no way to get from 207 to the site where the development could occur. As I stated, the properties to the east are currently residential use. Property across the street is proposed for a residential subdivision, so we certainly feel that this would be in keeping with the neighborhood, a variance allowing residential use on site and the hardship is not self-created. The abandonment of the, actually, the road right-of-way has existed, it's not something that was the result of any action by the applicant. And I

think that outlines from our perspective what we feel is the basis for the request for the variance. As I say, I have the parties here who provided me with that information in case the board wants any verification as to those items from them. I didn't touch on the agricultural uses that are theoretically permitted in there but quite honestly, the parcel's not large enough to make it a viable piece of farmland.

MR. KRIEGER: Which is allowable under the zone.

MR. REINEKE: Before we even get to that--

MR. KRIEGER: I think you've got the cart before the horse, that's the first place to get to if you can't do it legally, who cares whether it's feasible or not.

MR. MINUTA: Let me recap a section of this, on the east side of the lot that's a proposed 49 lot subdivision, is that what I heard?

MR. REINEKE: Across on the southerly side across Kings Road this area down there.

MR. MINUTA: This is in an OLI zone this whole section that's being proposed?

MR. REINEKE: I'm not sure, is the information on that submitted?

MR. BABCOCK: No, the OLI zone.

MR. REINEKE: I think it cuts at the property line.

MR. YANOSH: OLI cuts through.

MR. REINEKE: I knew the engineer was here for a reason. See that?

MR. YANOSH: There's the property there, OLI is probably a little ways into that piece of property and the rest of it is R-1.

MR. MINUTA: Property to the east is currently being used in what capacity?

MR. REINEKE: Currently, the property immediately to the east is vacant. As you continue down, these parcels are developed as single family residences. You have a commercial piece up where Toleman connects, you have the, up here, you have the mini-warehouses and then you do have some commercial when you get further down there, there's the new office building with the access right on 207.

MR. MINUTA: Yes, I'm familiar.

MR. REINEKE: And in between really nothing.

MR. KANE: I think for the record we should have the experts come up and--

MR. KRIEGER: Establish the--

MR. KANE: For the record.

MR. REINEKE: Okay, well, Dan, you're the first one, you're on the plan, so, if you could just verify for the board I'll just ask you a few questions. The first map that we presented to the board showed the hundred foot setbacks, is that the map that's prepared based on that?

MR. YANOSH: Yes.

MR. REINEKE: And can you just point out for the board the limited area that's available for use with the required setback for the multiple uses indicated on that map?

MR. YANOSH: You have a hundred foot setback from Kings Road and a hundred foot back from 207, 50 foot side yard leaves you this small little triangle here which is probably 40 by 70 foot triangle, very small little building could fit into an area, if you used those uses which are the use necessary here, 1B, 1C, 8, 9, 10, 11 and 12 uses are 3, 4, 5 acre uses so it wouldn't go into that use.

MR. REINEKE: And moving to the second map that was

presented to the board, this is the one that has the proposed office building on it that again, just for the record, is this a survey map that you prepared with a proposed location based on the 40 foot setback requirements?

MR. YANOSH: Yes.

MR. REINEKE: And that indicates on it is a proposed professional office building, in your opinion, I know you've done this for years, can that building be expanded to any larger size?

MR. YANOSH: Maybe a little bit, couple feet either way. But the size of it is good for the location. We have to put landscaping around the perimeter and the parking requirements for this size building are about filled up with that. The septic system would have to be in the corner, we can't go any further with parking, this is almost maximizing the use of the property.

MR. REINEKE: And the third map that was presented was the map illustrating the proposed house, is that structure located in compliance with the various setback requirements for residential in that area?

MR. YANOSH: Yes, it is.

MR. REINEKE: Okay.

MR. YANOSH: It has the 45 foot front yard which is off Kings and the abandoned road that goes through and the 40 foot side yard which complies with the zoning.

MR. REINEKE: I would have no other questions of Mr. Yanosh, unless the board has any questions.

MR. KANE: I don't.

MR. MC DONALD: I don't either.

MR. KANE: Okay.

MR. REINEKE: Jessie, if you can come up for a moment.

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MR. REINEKE: Jessie, just for the record, we need to ask you a few questions. What's your professional affiliation with respect to real property activities?

MS. STERN: I'm a licensed real estate salesperson affiliated with Weichert Realtors of Monroe selling houses for approximately six years.

MR. REINEKE: Do you, I believe you've had an opportunity to review the properties that were the subject of this application and you heard the surveyor, my explanation as to the locations, can you just advise the board in your opinion as a real estate salesman as to the issues that would be faced in trying to rent map 2, trying to rent map 2, which is a proposed retail professional office building at the particular location?

MS. STERN: I think in my opinion that it would be difficult because as stated before, it's an isolated building with really no other commercial around there. There are houses across the street and all along the side of that, except for the one vacant piece next to it, and there's nothing bringing people to that area there, especially that the visibility pretty much is going to be fronting Kings Road and the main business location is down the ways on Route 207. So I think it would be a difficult hardship to be able to rent that property.

MR. KANE: So you think for the amount that it would take to build the professional building, that they would not make a reasonable return on that money?

MS. STERN: Yes and I think it would take possibly quite a long time to--

MR. KANE: Longer than what you would consider reasonable?

MS. STERN: Longer than I believe a residential home would take to market the property and sell.

MR. KANE: And you saw the property that was out there?

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MS. STERN: Yes.

MR. KANE: Do you feel that a single family home better fits that property than an office building?

MS. STERN: I do, yes, I do.

MR. KANE: Gentlemen, any other questions?

MR. REIS: I have none at this time.

MR. MCDONALD: No.

MR. RIVERA: No.

MR. REINEKE: Mr. Biagini, since you're the one who advised me as to the properties to the east, you indicated that there were a number of residences, vacant parcels, if you can just repeat that for the board?

MR. BIAGINI: Effects on this parcel, there's another large vacant piece and then there are seven residential homes on the same side of the road, then goes down to Route 207.

MR. MCDONALD: You have some on 207 that are residential on that side, right, Kings Road, and yeah, there's four or five?

MR. BIAGINI: Coming back the other way, yes.

MR. KANE: Any other questions, gentlemen? Anybody have a motion?

MR. REIS: Accept a motion?

MR. KANE: Yes, I will.

MR. REIS: I make a motion that we approve the use variance for Highview Estates of Orange County on Route 207 and Kings Road.

MR. MCDONALD: Second it.

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ROLL CALL

MR. REIS	AYE
MR. MINUTA	AYE
MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. KANE	AYE

VINCENTE & SOROCCO MAMAAT (#03-34)

MR. KANE: Request for 11 ft. rear yard setback (Section 48-12 use/bulk tables, R-4 zone, column G-8) for proposed deck at 15 San Giacomo Drive in an R-4 zone.

Ms. Sorocco Mamaat appeared before the board for this proposal.

MR. KANE: Is anybody here for this public hearing that wishes to speak? Hearing none, let's move on. Hi, same as the preliminary, you want to tell us what you want to do.

MS. MAMAAT: We want to rebuild an existing deck, a new one which is 7 x 12 on the top and 12 x 26 on the ground.

MR. KANE: Was there an existing deck there?

MS. MAMAAT: Yes.

MR. KANE: Do you know how old that deck was approximately?

MS. MAMAAT: Approximately as old as the house itself, about 25 years.

MR. KANE: And did you have any complaints formally on informally about the deck, any complaints from neighbors about the old deck?

MS. MAMAAT: No.

MR. KANE: Any complaint?

MS. MAMAAT: While we were building a new one, which is longer than the proposed deck, it was being questioned because then we know that we don't have the variance to build it.

MR. KANE: And without the deck there coming out the doorway in the back of the house that would be a safety issue?

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MS. MAMAAT: Yes, cause it's on the second level of the house.

MR. KANE: You'll not be creating any water hazards or runoffs with the building of this deck?

MS. MAMAAT: I don't think so because it was an existing deck.

MR. KANE: And no, obviously no taking down of trees or substantial vegetation?

MS. MAMAAT: No.

MR. KANE: Are there any easements where the deck is, right-of-ways in your yard?

MS. MAMAAT: No, no.

MR. KANE: Gentlemen?

MR. KANE: At this point, I'll open and close the public helping since there's nobody here for it.

MS. MASON: On the 30th of September, 37 addressed envelopes containing the notice of public hearing were mailed out and I have had no responses.

MR. MCDONALD: Accept a motion?

MR. KANE: Yes.

MR. MCDONALD: Motion that we grant the variance for Vincente and Soroco Mamaat for an 11 foot rear yard setback variance.

MR. RIVERA: Second it.

ROLL CALL

MR. REIS	AYE
MR. MINUTA	AYE
MR. RIVERA	AYE
MR. MC DONALD	AYE

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MR. KANE

AYE

LUIS ROSATO MAISONET (#03-46)

Mr. Luis Maisonet appeared before the board for this proposal.

MR. KANE: Request for 33 ft. & 30 ft. 4 in. side yard setback & 83 ft. rear yard setback (Use 7-F, 7-G) for proposed deck at 409 Old Forge Hill Road in an R-5 zone. You didn't bring your visual display today?

MR. MAISONET: I've got it in the car.

MR. KANE: It was very good.

MR. MAISONET: Thank you.

MR. KANE: Tell us what you want to do, same thing as the preliminary hearing.

MR. MAISONET: I want to build a deck so it will be easier for us to leave the house, we have activities at the house like barbecues. Because the way we live now, we have to go across the hallway, downstairs, back upstairs, by the time you get there with all the food and everything you're tired, you don't feel like eating no more.

MR. BABCOCK: And it's cold.

MR. KANE: Approximately a 12 x 12 deck, is that similar in size to other decks in your neighborhood? Your deck is about the same size as other decks, not overly big?

MR. MAISONET: No, no, it's about the same.

MR. KANE: You won't be creating any water hazards or runoffs?

MR. MAISONET: No, sir.

MR. KANE: Cutting down of any trees or substantial vegetation?

MR. MAISONET: No, just have to go four inches with

cement to make a patio.

MR. KANE: Any easements through your yard?

MR. MAISONET: No, sir.

MR. KANE: Is there any doorway coming out of your home to this deck, going to be a door coming out to the deck from the house?

MR. MAISONET: Yes, from the basement, yes.

MR. KANE: Gentlemen, do you have any other questions?

MR. MAISONET: No, sir.

MR. REIS: No.

MR. MINUTA: No.

MR. KANE: I'll take a motion. For the record, is there anybody here from the public to speak on this application? Seeing there is not, I will open and close the public hearing. How many mailings?

MS. MASON: On the 30th of September, 41 addressed envelopes containing the notice of public hearing were mailed out with no responses.

MR. KANE: Mike?

MR. REIS: Accept a motion?

MR. KANE: Yes, I will.

MR. MINUTA: Motion that we grant the request for Mr. Luis Maisonet for 33 foot by 30 foot 4 inch side yard setback and 83 foot rear yard setback for the proposed deck on 409 Old Forge Hill Road in a R-4 zone.

ROLL CALL

MR. REIS	AYE
MR. MINUTA	AYE
MR. RIVERA	AYE

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MR. MC DONALD
MR. KANE

AYE
AYE

SCHLESINGER'S DELI DEPOT (#03-45)

Mr. James Petro appeared before the board for this proposal.

MR. KANE: Request for 6" height and 12' width for wall sign (Use 48-18-H-1B-1) at 904 Little Britain Road in an NC zone.

MR. PETRO: Mr. Schlesinger couldn't make it so I'll represent the property. I'm the owner, James Petro.

MR. KANE: Tell us what you want to do.

MR. PETRO: Basically, we removed three, four signs off the building. When I bought it, it was renovated, Mr. Schlesinger now wants to add his own sign back. His name is rather long, as you know, so therefore, he can't get it in the allowed space. So he's looking for a variance, I believe 6 inches by 12 feet for a variance to advertise his business in that location and that basically is it.

MR. KRIEGER: He's going to have one sign on the front and one freestanding sign?

MR. PETRO: Freestanding sign's already existing, again, we put three signs, revolving sign and there was enough that we had room for one, that sign that twirls around which was the existing sign.

MR. KRIEGER: One and there were three?

MR. PETRO: On the building there was four signs, we're looking to put one back.

MR. KANE: How far off the road is the building?

MR. PETRO: About 65 feet.

MR. KANE: And you feel you need the increase in the signage for visibility from the road?

MR. PETRO: Correct.

MR. KRIEGER: This proposed sign would be contained entirely within the roof line?

MR. PETRO: That's correct.

MR. KANE: No flashing illumination?

MR. PETRO: There is illumination.

MR. KANE: But no flashing?

MR. PETRO: No.

MR. KRIEGER: It's a steady illumination?

MR. PETRO: Correct.

MR. KANE: You feel the size of the sign on there is similar to other signs in the neighborhood?

MR. PETRO: Oh, sure, I guess his name's a little longer than some other names.

MR. KANE: At this point, I'll ask if there's anybody in the audience for this particular hearing? There's no one so I'll open and close the public portion and ask for the mailings.

MS. MASON: On the 30th day of September, 19 addressed envelopes were mailed containing notice of public hearing and I had no response.

MR. KANE: Gentlemen, any further questions?

MR. MINUTA: One question. Is this considered one sign?

MR. BABCOCK: Yes.

MR. MINUTA: Thank you.

MR. MCDONALD: If his name was shorter, we wouldn't be here?

MR. PETRO: I told him to change his name to Cox.

MR. KRIEGER: Should of used your name.

MR. REIS: Accept a motion?

MR. KANE: Yes, I will.

MR. REIS: Make a motion that we approve the
Schlesinger's Depot sign variance for property located
at 904 Little Britain Road.

ROLL CALL

MR. REIS	AYE
MR. MINUTA	AYE
MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. KANE	AYE

ABSTRACT PROPERTIES LLC (RICHARD PALTRIDGE) (#03-42)

MR. KANE: Request for existing 6 ft. fence to project nearer the street than the principal building (48-14 C(d) Use A-6) on Route 207.

Mr. Paul Cuomo and Mr. Richard Paltridge appeared before the board for this proposal.

MR. KANE: We're all set. What do you have?

MR. PALTRIDGE: I'm here coming back from the preliminary about the fence, 6 foot high fence that's on my property was pre-existing from the original permit which was issued in '93 for the fence. And I purchased the property in July 24 of 2003. On July 11, Town Building Department issued a permit given the C.O. on all the fences and all the existing stuff that was wrong on the property, went down for a, wanted to repair the existing fence, went to the building department and he told me the fence wasn't in compliance because it was a setback close to the road, I needed to have a variance but there was already a 6 foot there. And the fence was completed. I'm just asking today to go through all the paperwork to get the fence in compliance and granted to stay.

MR. MINUTA: Is that fence existing?

MR. CUOMO: Yes.

MR. MINUTA: So it's there now?

MR. PALTRIDGE: Yes, it's there, it's there now.

MR. CUOMO: We had a building permit in '93.

MR. PALTRIDGE: Never got a C.O. on it. I have a map here from 1996 shows that the fence was there in '96. I purchased the property, I've been there since 1998, fence was always there, but it wasn't in, two cars had gone through it in the past and it hadn't been fixed properly. Once I purchased the property, I wanted to clean up the property, make it look right.

MR. KANE: That brings up the point, does the fence at any point block any view of traffic?

MR. PALTRIDGE: No, it does not.

MR. CUOMO: It's off to the rear.

MR. PALTRIDGE: Actually, the fence sits behind the telephone poles.

MR. MCDONALD: Actually, the road here, that's Browns Road.

MR. PALTRIDGE: I guess that's what they call it, Browns and Riley is back off, I guess, I'm not from New Windsor, I'm not aware of the roads yet.

MR. KANE: Any complaints formally or informally?

MR. PALTRIDGE: No, never had. Well, I had a comment from Mr. Meyers, informally Mr. Meyers the Supervisor had talked to me in the past probably three years ago about slatting the fence, privatize it.

MR. KANE: From the pictures, you did that, is that completed?

MR. PALTRIDGE: Yes, Ketcham Fence did all the completion.

MR. MCDONALD: That used to be a short cut.

MR. PALTRIDGE: Yes and everybody went through the property like crazy at about 80 miles an hour.

MR. KANE: Just looking at the pictures, there's a section of the fence that doesn't have the slatting through but it's all done now?

MR. PALTRIDGE: All done now.

MR. KANE: Do you know if there was any creation of water hazards or runoffs with the building of this fence?

MR. PALTRIDGE: No.

MR. KANE: Cutting down any trees or substantial shrubbery?

MR. PALTRIDGE: None.

MR. KANE: Any easements whatsoever?

MR. PALTRIDGE: No.

MR. MCDONALD: Does this become part of the permanent record? I think that the roads should be the right roads here, it's not Mt. Airy and it's not really, it's Browns Road that's on the back, 207 from the property and Browns Road in the back of the property Riley Road, stop sign, that road that runs along the fence here is Browns Road.

MR. BABCOCK: Actually, Mr. Chairman, the road that runs behind it would be Moores Hill Road and then Browns Road goes off of it after this fence, I don't have that particular map that you're looking at, must be--

MR. MCDONALD: I'm looking at the pictures.

MR. BABCOCK: Okay, no, we have, actually, right, they're calling it Little Britain Road on this map which is an older map, that used to be Little Britain Road and Browns Road used to be Little Britain Road and then they straightened it out.

MR. KANE: So this is actually Browns Road?

MR. BABCOCK: It is on the back side it's actually Moores Hill Road.

MR. KANE: So now it's in the record. Any other questions?

MR. MINUTA: I just have a question with regards to where the fence, I'm not making heads or tails of this, along Route 207, is there a fence along 207?

MR. PALTRIDGE: No.

MR. MINUTA: So it's along the back side here?

MR. BABCOCK: It's between the mobile homes and then runs along.

MR. KANE: At this point, I'll ask if there's anybody in the audience that wishes to speak on this hearing? And seeing there's not, I'll open and close the public hearing portion of the hearing, ask how many mailings we had?

MS. MASON: On the 30th of September, 28 addressed envelopes containing the notice of public hearing were mailed out and I have no response.

MR. KANE: Any other questions, guys?

MR. RIVERA: Accept a motion?

MR. KANE: Yes, I will, Steve.

MR. RIVERA: I move we grant the Abstract Properties LLC (Richard Paltridge) the existing 6 foot fence to project closer to the street than the principle building on Route 207.

MR. MCDONALD: Second it.

ROLL CALL

MR. REIS	AYE
MR. MINUTA	AYE
MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. KANE	AYE

4 ACRES LLC (HANNAFORD'S) (#03-47)

MR. KANE: Request for various sign variances (as listed) all at Route 32 and Route 94 in a C zone.

Larry Wolinsky, Esq. and Mr. Douglas Boyce appeared before the board for this proposal.

MR. MINUTA: Mike, can we just get a clarification on the change between the most recent submittal which has been revised and what was originally submitted?

MR. BABCOCK: What we did was one of my assistants had done the original denial and the night, the first night we were here and they give their presentation, there was some differences in our numbers and their numbers so I went back the next day and re-did it myself and I just got done talking to Larry in reference to this that on the Hannaford's sign, it's not on a post, it's a solid base, so we consider the entire base part of the sign and that's where the square footage difference comes, different from us to what they thought they had. So if you can see, we take the top where it says Hannaford's and we don't curve it, we make it square so when you take that entire square footage of that sign, it's actually much larger than what their sign really is and if they took and put the sign on a pole, we count that whole bottom.

MR. MCDONALD: You're including the base?

MR. BABCOCK: That's correct.

MR. WOLINSKY: Because it's solid.

MR. MINUTA: So, Mike, essentially it's gotten larger?

MR. BABCOCK: Yes.

MR. MINUTA: Than the first submission because of the base?

MR. BABCOCK: Because of the way we're counting it, that base is 6 foot wide and 12 foot high, so 6 x 12, 6 foot by 12 foot double sided is what we're counting,

square footage.

MR. WOLINSKY: The base, by the way, was shown on the first submission, just wasn't calculated.

MR. MINUTA: Correct, yes, we're clear on that, thank you.

MR. KRIEGER: Sign hasn't gotten bigger, the numbers have gotten bigger.

MR. BABCOCK: We just want it clear for the record.

MR. KANE: Go ahead.

MR. WOLINSKY: So we're here tonight for a public hearing for the variance for Hannaford's Supermarket. We're proposing four signs, there are two pylon signs and two facade signs, the pylon signs that are two, again, one is located on Route 94 and one is located on Route 32. We have in fact reduced the size of those signs since the last time we met although again because of the solid base, it won't show. Let me refer you to these visuals which are to scale and which are superimposed, this is the 94 perspective and this is the 32 perspective. The signs were originally proposed at 20 feet high, they have now been reduced to 18 feet, so they have been reduced to two feet. The Monro Muffler Brake sign is 18 feet which you can see in your package there and down on 94 here is the Foam and Wash sign which is in fact over 19 feet. Both in terms of actual sign square footage, the face square footage, Monro Muffler and Foam and Wash significantly exceed this because we have, as we have come down in height, we reduce the portion of the lettering square footage to where we had just for the lettering square footage before 112 square feet, that's now been reduced to 85 square feet, but added onto that as we have just found out from the building inspector is the solid, is the measurement of the solid base. So we think we're keeping within the same scale of other signs in the corridor. I think this effectively shows that we're really not out of character with that. Just to make them similar to the 32 sign, it has been decreased similarly. And as far as the facade signs are

concerned, again, the variance request, the actual numbers have not changed from what's in the building inspector's denial and there was not much discussion on that at the pre-hearing. So we have left those as is. And I will be happy to answer any questions submitted just for the record, submitted a narrative that went along with this that sets forth the legal justification for we believe the variances.

MR. REIS: Larry, you used the word pylon? I don't, I understand what you're indicating is a pylon and I don't claim to be an engineer or Webster's mechanic here, but why is that called a pylon when it's such a massive structure or why can't you put a pylon there aesthetically and structurally and cosmetically instead of a mass like that?

MR. WOLINSKY: Well, the code, the word the code uses is freestanding, the reason I have used the word pylon is because that's what the engineers communicated to me so I will defer to the engineer for any definition.

MR. BOYCE: Douglas Boyce for Hannaford's. We typically call that a pylon sign.

MR. REIS: That's a stretch.

MR. BOYCE: I don't know if anyone's researched the word pylon or bothered to see if any code actually contains the definition for that word, it's a freestanding sign under most codes.

MR. REIS: I'm just curious why you wouldn't have to get a variance, why wouldn't it have been possibly as good to put up your typical pylon or tube perhaps to support that?

MR. WOLINSKY: Just have an pole supporting this?

MR. REIS: Yeah, one or possibly two.

MR. BOYCE: Aesthetically, we believe that this sign which might be called a cabinet sign because it's got a cabinet concealing the structure, aesthetically, we believe this is a lot more attractive than the typical

post-mounted sign, that when you take a fairly large box sign, put it on a small post, it's--

MR. REIS: I happen to like the cabinet rather than the pylon, that's good, thank you.

MR. BABCOCK: Mr. Chairman so I can clarify, when we started talking, basically, their sign, Hannaford's Brothers sign that's on Route 94, the one we're talking about is just under 85 square feet, the sign itself we're saying it's 176 square feet because of the cabinet, so they're allowed 65, so if we only counted the Hannaford's sign, they would only need a 20 square feet variance.

MR. KANE: I think it's aesthetically pleasing personally, I don't think it's a problem, they did what we wanted them to do in bringing the size of the sign down on that road so it's in conformity with the other signs right there.

MR. MCDONALD: Doesn't seem to be blocking any view or any sight distances.

MR. WOLINSKY: No, it's well set back.

MR. KANE: Any illumination on that sign?

MR. BOYCE: Internal.

MR. KANE: Non-flashing?

MR. BOYCE: Correct.

MR. KRIEGER: It's a steady illumination?

MR. BOYCE: Yes.

MR. MINUTA: For the record, it's not blocking any views for vehicular access?

MR. BOYCE: Correct.

MR. KANE: Approximately, how far off the curb is the sign itself?

MR. BOYCE: Off the curb about 15 feet.

MR. MC DONALD: If I remember correctly from when we first discussed it, there won't be any left turns.

MR. BOYCE: That's correct.

MR. MINUTA: And there won't be any future signage down below on the pylon itself?

MR. BOYCE: That's correct, not contemplated.

MR. MINUTE: I'm delighted with the sign, I think aesthetically, it's pleasing and you've met the requirements and conformed to the other areas.

MR. RIVERA: I just have a question. On Route 32, you have the facade and you also have the pylon, the cabinet pylon, do you need two signs? Do you need, I mean, I think that's overly done.

MR. KRIEGER: You're looking at the view from across the street, but coming from Central Valley up 32, you're not going to see that sign on the side of the building.

MR. BOYCE: In response to your question, primary reason to have the pylon sign is if you're coming northbound on 32, big as the building is, you don't see it until you're right on top of it. But if you have the opportunity to see it as you're coming up over the rise, you have the opportunity to see this sign back southerly on 32.

MR. KANE: That sign itself, about approximately how far off the road is that sign?

MR. BOYCE: That sign because the right-of-way off Route 32 there stretches quite a ways back so it's not right up to the, there's a notation on it and it says it's a good 30 feet back, it's quite a ways back, we had to locate it within the outside of the right-of-way line, right-of-way line runs back up the slope.

MR. WOLINSKY: People who are going up this way and come to the traffic light will see that sign, know to turn into the main entrance before they see that facade sign.

MR. MINUTA: Just a sight issue, why would we not locate that nearer the entrance?

MR. BOYCE: There really isn't a good place to put it near the entrance where you're not in the right-of-way, in the DOT right-of-way.

MR. WOLINSKY: Plus--

MR. BOYCE: Just a function of how the property line of this parcel actually cuts through here didn't provide an optimum location and if you're in here, you may also be obscured where there's a lot of vegetation right immediately off-site there.

MR. MCDONALD: You've got a rise there, the property kind of is elevated on that side.

MR. BABCOCK: It's just about the only location on the lot, see it right here, it's right on the edge.

MR. MINUTA: That's completely acceptable.

MR. BABCOCK: If they move it forward, it would be in the little, see the parking area?

MR. MINUTA: Sure.

MR. WOLINSKY: And if you move it too far back, you're blocking the visibility at the intersection so--

MR. MCDONALD: What's the purpose of that other site?

MR. BOYCE: That road?

MR. MC DONALD: Yes.

MR. BOYCE: We're putting a, we're signaling a commercial driveway on a state road which is not always the most highly accepted thing to do from a traffic

standpoint, from DOT's perspective. In order to gain their acceptance for this, in order to do some access management and allow this property to be served by the traffic light, thus closing off the curb cut that exists here and also there's a second that Long John Silver's Fish and Chips has another curb cut at this location, if this property, when and if this property develops, this access may change to right in, right out.

MR. WOLINSKY: Because you don't want this guy, these people now will not want to make this left turn because they can go right up here.

MR. MCDONALD: Coming out of McDonald's, somebody trying to turn toward--it's impossible.

MR. BOYCE: It's quite an expense to create this but just to clean up and eliminate the left turn conflicts and as mitigation shows some benefit to the project.

MR. WOLINSKY: DOT liked the idea.

MR. REIS: Hannaford put that in?

MR. BOYCE: Yes, we won't have any obligations to it once it's there, but we paid to construct it.

MR. KANE: Both of the pylon signs or the freestanding signs are at 18 feet?

MR. BOYCE: Correct.

MR. KANE: So Mike and your notice of disapproval, variance requested is going to go from 5 feet to 3 feet?

MR. BABCOCK: That's correct.

MR. WOLINSKY: We have an updated plan, Mike, that has all the new dimensions on it that you can use.

MR. BABCOCK: I'll take care of it with Myra tomorrow on her denials.

MR. BOYCE: I apologize, we did not know the measurement basis that the code officer uses for these cabinet type signs.

MR. KRIEGER: Now, with respect to the facade signs, no part of the signs project higher than the roof, is that correct?

MR. BOYCE: That's correct.

MR. KANE: They're steady illumination also?

MR. BOYCE: That's correct.

MR. MINUTA: Did you have the opportunity to provide the perspective of them within the requirement and then what has been proposed?

MR. WOLINSKY: I don't believe we've done one.

MR. BOYCE: Referring to which?

MR. MINUTA: We requested at the last meeting that you provide signage as you propose it and signage that would meet the requirements.

MR. BOYCE: In view of what I've heard about the cabinet measurement, I'm not sure we'd be in a position or the answer is no, well, did we show one 15 feet high is the answer.

MR. WOLINSKY: This would basically shrink down 3 feet, it would fall below the Monro Muffler sign and--

MR. BOYCE: After we looked at the file on the other signs in the area to which you wanted us to make reference and saw that the Monroe was 18 feet top, to the top of the cabinet and Foam and Wash is 19 feet, we felt that 18 feet was an appropriate location and we proportioned the sign smaller with respect to smaller in area.

MR. MINUTA: It's my opinion that you've done that fantastically, it's within the confines of all the other signs within the area. I don't feel there's an

issue there. The only one was the building signs.

MR. KANE: No, actually, that sign on the 94 building signs, I don't have, it's well done, and I don't have much of a problem because they're really off road, personally, I don't have that much. It was the one on 94.

MR. WOLINSKY: That's what your big concern was last meeting, 94.

MR. KANE: Okay, let me take care of a couple of things. Seeing as there's no one in the audience, I will open and close the public portion of this meeting and ask how many mailings we had?

MS. MASON: On the 30th of September, 70 addressed envelopes were mailed out with no responses.

MR. KANE: And I've got to say Shop Rite and Price Chopper aren't here. What happened?

MR. WOLINSKY: First time ever.

MR. BABCOCK: They're looking to get a building permit also.

MR. REIS: Accept a motion?

MR. KANE: No, not yet, I really do just want to clarify something, as far as the variances, they're requesting sign, they're looking for an 8 foot 1 inch by 17 foot 5 inch variance on the building.

MR. BABCOCK: Which one are you talking about now?

MR. KANE: The first set would be the facade signs, 8 foot 1 inch by 17 foot 5, am I reading that right?

MR. BABCOCK: No, it should be 6 foot 9 inch by 17 foot 6.

MR. WOLINSKY: Correct.

MR. KANE: Six foot 9 inch by 17 foot 6 and the other

facade sign we don't need an additional facade sign or do we?

MR. WOLINSKY: We do.

MR. KANE: So we need an additional facade sign at 8 foot by 47 foot 6.

MR. WOLINSKY: No.

MR. BABCOCK: Yes.

MR. REIS: What's the dimensions?

MR. KANE: Eight foot by 47.6, so there's the first facade sign needs a variance of 6 foot 9 inches by 17 feet 6 inches, an additional facade sign at 8 foot by 47 foot 6 inches.

MR. BABCOCK: 47 foot 8 inches.

MR. KANE: Freestanding, the first freestanding sign will have a three foot height variance and 112 square feet?

MR. BABCOCK: That's correct.

MR. KANE: Sign variance then and additional pylon sign or cabinet sign, whatever you want to call it, with a three foot, now, would you call that a three foot?

MR. BABCOCK: Height, yes.

MR. KANE: Even though it's, they need a whole new sign.

MR. BABCOCK: Yes.

MR. KANE: So three foot and the 112?

MR. BABCOCK: Right.

MR. KANE: You guys got that?

MR. RIVERA: Yes.

MR. KANE: Now I'll accept a motion.

MR. KRIEGER: One other thing, if I may put something in the record. Because of the size of the building, would it be correct to say that facade signs that were smaller than that would look inappropriate?

MR. BOYCE: Yes.

MR. WOLINSKY: Yes, that's correct, they would be out of scale with the mass of the building.

MR. KRIEGER: Inappropriate because of the scale?

MR. WOLINSKY: Yes.

MR. KRIEGER: That's it.

MR. KANE: Accept a motion, gentlemen.

MR. REIS: First of all, just to preface as my approval for your application, I'm sure we all feel very positive about the final results, so thank you very much for your effort.

MR. KANE: With that, I'll take your votes.

MR. REIS: As discussed between the Chair and the building inspector for the size of the sign variances, I make a motion that we accept and pass the variances requested for Hannaford's at the 32 and 94 location.

MR. MCDONALD: Second it.

ROLL CALL

MR. REIS	AYE
MR. MINUTA	AYE
MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. KANE	AYE

MR. KANE: Gentlemen, I'll accept a motion to adjourn.

October 27, 2003

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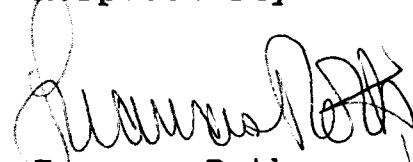
MR. REIS: So moved.

MR. RIVERA: Second it.

ROLL CALL

MR. REIS	AYE
MR. MINUTA	AYE
MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. KANE	AYE

Respectfully Submitted By:


Frances Roth 11/18/03